

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 36-2107(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Section 36-2102, Idaho Code, states that an outfitter is "any individual, firm, partnership, corporation or other organization or any combination thereof, who, while engaging in any of the acts enumerated herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions." This includes private landowners.

In 1992, the Idaho Supreme Court (State v. Koller 112 Idaho 409) held that the outfitting and guides act regulates commercial outfitting whether it's occurring on public or private lands and that the State of Idaho has jurisdiction. As the result, private land owners have been licensed as outfitters themselves, have designated agents (including existing outfitters) as employees to provide facilities and services and have leased lands to others for outfitting purposes.

The purpose of this rulemaking is to clarify and enhance the ability of private landowners to allow public access to their private lands and, in doing so, they also are intended to clarify outfitted use and license requirements when outfitted facilities and services are provided by the landowner or someone authorized by the landowner to do so. The Board states that the rule also is intended to clarify existing rules to address a concern over the loss of access due to the proliferation of organizations and clubs operating commercially due to the ambiguity in existing rules. The Board also notes that in doing so, organizations and clubs offering outfitted facilities and services, including acquiring access to private or public land for hunting, fishing or hazardous excursions and for commercial gain, will be governed by the same limits and restrictions set forth in the rules governing licensed commercial outfitters.

The Board notes that negotiated rulemaking was conducted.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013, Idaho Administrative Bulletin, [Vol. 13-10, pages 357 through 359](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

No fiscal impact will occur as a result of changes that are being made.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact.

DATED this November 20, 2013.

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